

Real Property, Financial Services, & Title Insurance Update: Week Ending November 22, 2019

December 02, 2019

Real Property Update

- **Foreclosure / Rehearing:** Order denying rehearing on summary judgment motion and denying continuance affirmed where (1) affidavit in support of rehearing failed to disclose any genuine issue of material fact and (2) motion for continuance failed to demonstrate diligence and good faith to continue discovery – [1601 Bay LLC v. Wilmington Savings Fund Soc’y, FSB](#), No. 3D19-492 (Fla. 3d DCA Nov. 20, 2019) (affirming final summary judgment)

Title Insurance Update

- No cases of interest to report.

Financial Services Update

- **TCPA / Class Action / Standing:** Individuals not on do not call registry, and who never asked company not to be called again, would lack Article III standing – [Cordoba v. DirecTV, LLC](#), No. 18-12077 (11th Cir. Nov. 15, 2019) (vacating certification order and remanding for further proceedings)
- **TCPA / Class Action / Predominance Inquiry:** District court abused its discretion in certifying class that included both class members who requested not to receive further calls and who did not request not to receive further calls without considering whether individualized issue of standing will predominate over common issues, when it appears that large portion of class does not have standing and making such determination for such members will require individualized inquiries – [Cordoba v. DirecTV, LLC](#), No. 18-12077 (11th Cir. Nov. 15, 2019) (vacating certification order and remanding for further proceedings)

- **FCRA / Class Action / Standing:** Plaintiff job applicant stated cause of action for employer's failure to provide copy of credit report and written description of rights before taking adverse action, but lacked concrete injury to state claim for disclosure and authorization claims – [Jones v. Salvation Army](#), No. 3:18-cv-00804 (M.D. Fla. Nov. 15, 2019) (granting in part and denying in part motion to dismiss)
- **TCPA / Vicarious Liability:** Plaintiff stated plausible claim that T-Mobile was an agent for Subway such that Subway may be vicariously liable for a violation of the TCPA – [Fishman v. Subway Franchisee Advert. Fund Tr., Ltd.](#), No. 2:19-cv-02444 (C.D. Cal. Nov. 19, 2019) (denying motion to dismiss for failure to state cause of action)
- **Consumer Protection:** Plaintiffs who claimed they would not have purchased tickets to Mayweather-Pacquiao fight had they known of Pacquiao's shoulder injury did not suffer a legally cognizable injury because they got what they paid for — a full-length regulation fight – [In re Pacquiao-Mayweather Boxing Match Pay-Per-View Litig.](#), No. 17-56366 (9th Cir. Nov. 21, 2019) (affirming district court's dismissal of claims)

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